



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/603,520	06/23/2000	Peter Bernard		1891

7590 07/16/2002

Irell & Manella LLP  
Suite 900  
1800 Avenue of the Stars  
Los Angeles, CA 90067

EXAMINER

DESIR, JEAN WICEL

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 07/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/603,520

Applicant(s)

BERNARD ET AL.

Examiner

Jean W. Désir

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8-76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 8-14, 16, 19, 26-39, 41-44, **45-51**, 53, 56, 63-71, 73-76 are rejected under 35 U.S.C. 102(e) as being anticipated by Holub (6,157, 735).

Claim 8:

“transferring images to the remote user’s display upon initiation of color display characterization” is disclosed, see col. 13 lines 32-34, 58-60, col. 14 lines 22-30, to cite a few places where transferring images occurred as claimed;

“processing information related to the user’s interactions with the images to determine color display characteristics of the remote user’s display” is disclosed, see col. 14 lines 27-32, 41-51, col. 13 lines 34-38, to mention a few places where processing information to determine color display characteristics occurred as claimed.

Claim 9: “transferring the images to the remote user’s display before transferring information processing code to the remote user” is disclosed, see col. 13 lines 32-37, col. 14 lines 27-32.

Claim 10: "processing the information at a server to determine color display characteristics of the remote user's display" is disclosed, see col. 14 lines 27-32, 41-51, col. 13 lines 34-38, to mention a few places where processing information to determine color display characteristics occurred as claimed.

Claim 11: "transferring the images to the remote user's display from a server" is disclosed, see col. 13 lines 32-37, col. 14 lines 27-32.

Claim 12: "processing the information at the server to determine color display characteristics of the remote user's display" is disclosed, see col. 14 lines 27-32, 41-51, col. 13 lines 34-38, to mention a few places where processing information to determine color display characteristics occurred as claimed.

Claim 13: "the remote user is a client computer connected to a network" is disclosed, see col. 12 lines 8-14.

Claim 14: "wherein the user's display is a monitor, a projector, a printer, or a plotter" is disclosed, see col. 12 lines 29-30, 59-60.

Claim 16: "selecting the image based on parameters including desired level of thoroughness of characterization, known hardware characteristics of the user, known software characteristics of the user, known characteristics of the network connection to the user, or characteristics of the images transferred to the user" is disclosed, see col. 43 lines 10-36, col. 44 lines 18-42, col. 13 lines 22-34.

Claim 19: "transferring to the server information related to image selection by the user in response to the images transferred by the server to the user's display" is disclosed, see col. 13 lines 22-34.

Art Unit: 2614

Claims 26-28 are disclosed, see col. 14 lines 22-51.

Claims 29-31 are disclosed, see Figs. 21E, 21F, col. 43 lines 19-36, col. 44 lines 15-21.

Claims 32-34 are inherent to Holub' disclosure.

Claim 35: "adjusting images distributed by the image provider to the user in accordance with the characterization file" is disclosed, see col. 8 lines 56-61, col.14 lines 22-40.

Claim 36: "color correcting the images in accordance with the characterization file" is disclosed, see col. 8 lines 56-61, col.14 lines 22-40.

Claims 37, 38 are disclosed, see col. 13 lines 22- 34, col. 44 lines 15-21.

Claim 39 is rejected for the same reasons as claim 16.

Claims 41-42 are disclosed, see col. 13 lines 22-34, col. 14 lines 22-33.

Claims 43-44 are disclosed, see Figs. 3A, 21E, 21F, col. 43 lines 19-36, col. 44 lines 15-21.

Claims 45-51, 53, 56, 63-68, 69-71, 73-76 are rejected for the same reasons as claims 8-14, 16, 19, 26-31, 37-39, 41-44.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2614

4. Claims 15, 17-18, 20-25, 40, 52, 54-55, 57-62, 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holub (6,157,735) and Bruck et al (6,008,836).

Claim 15:

The claimed limitation "wherein the images comprise test images or test patterns" is not explicitly disclosed by Holub. However, images that comprise test images or test patterns are notoriously well-known in the art as evidence see Bruck at the ABSTRACT lines 7-14, col. 9 lines 54-60. An artisan would be motivated to modify Holub's disclosure, in view of this well-known feature, to arrive at the claimed invention; because this modification would provide feedback for color correction or adjustment. Therefore, the claimed invention would have been obvious to a person of ordinary skill in the art at the time the invention was made.

Claim 17 is rejected in view of the above obvious modification.

Claim 18: "selecting the order in which the test images or test patterns are transferred to the user's display based on the parameters" is not explicitly disclosed by Holub.

However, Holub's disclosure is based on data structure, file structure for transferring data or file (see col. 13 lines 56-60); and Official Notice is taken that ordering or selecting order is a well known procedure in data structure in the art. Therefore, the claimed invention would have been obvious to a person of ordinary skill in the art at the time the invention was made.

Claims 20-22 are rejected in view of the above obvious modification.

Art Unit: 2614

Claim 23: "executable code running on a client computer connected to the server through a network to receive the images from the server and display the images on the user's display" is disclosed, see col. 13 lines 22-34, col. 14 lines 22-40.

Claim 24 is rejected in view of the above obvious modification.

Claim 25: the claimed limitation "selecting the order in which the images are transferred to the user's display" is not explicitly disclosed by Holub. However, Holub's disclosure is based on data structure, file structure for transferring data or file (see col. 13 lines 56-60); and Official Notice is taken that ordering or selecting order is a well known procedure in data structure in the art. Therefore, the claimed invention would have been obvious to a person of ordinary skill in the art at the time the invention was made.

Claim 40 is rejected for the same reasons as claim 25.

Claims 52, 54-55, 57-62, 72 are rejected for the same reasons as claims 15, 17-18, 20-25, 40.

***Response to Arguments:***

Applicants argue that "Applicants have reviewed the entire Holub reference and neither the language cited by the Examiner nor any of the other portions of the specification disclose transferring images to the remote user's display upon initiation of color display characterization" (see REMARKS page 2 second paragraph). This argument is not persuasive, because Holub disclose the claimed invention as pointed out in the above rejection; color correction, calibration or adjustment is considered as

Art Unit: 2614

color display characterization. And Holub initiates data for color display characterization or calibration (see again col. 14 lines 22-37, and further col. 9 lines 13-17).

Applicants argue that "The method of the invention thus utilizes the perception of a user (a human) of images displayed upon the user's monitor (display) to deduce how that monitor displays images" (see REMARKS page 3 first paragraph). This argument is not persuasive, because the feature in the argument is not in the claims. For instance "to deduce how that monitor displays images" is not in the claims.

### **Conclusion**

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jean W. Désir** whose telephone number is (703) 308-9571.



Art Unit: 2614

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **John W. Miller**, can be reached at **(703) 305-4795**.

**7. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231


**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

**8.** Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306 0377.

**JWD**  
**Jul. 14, 02**

  
**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**